
E X H I B I T "E"

P R O C E E D I N G S

(Whereupon, the proceedings began at 9:04 a.m., on Wednesday, December 3, 2003, in Judge's Chambers.)

THE COURT: Mr. Trabold.

MR. TRABOLD: Your Honor, for the record, the government has provided this morning plea agreements, which Ms. Frick requested and which she obviously is entitled to, for cross-examination purposes. They would be plea agreements for the following people. Andre Henderson. Albert Boyd. Larry Henry. Curas Newsome. Shannon Mathis. Emire Rosendary. Eric Tate. Joseph Wayne. Devoe Pickering. And Rich Figueroa. We are, just so the court's aware, there is no plea agreement for Lamont Johnson, he just entered a straight guilty plea. We are in the process of trying to obtain the signed copy of Jose Velasquez's plea agreement. The clerk indicates they don't have a signed copy in their file, in which case we'll turn over the plea agreement we know is entered. Part of the problem with that is Mr. Velasquez pled as Marco Ramirez, which is his alias. We are still making efforts, I believe today we will have the plea agreement for Raymond Simmons. I mistakenly received the wrong plea agreement when we made that request. I also turned over FBI 302 reports for interviews which were conducted last night for Rich Figueroa, Shannon Mathis, Curas

1 Newsome, Eric Tate. I believe that's it. And those are all
2 one page reports.

3 THE COURT: So you have all that?

4 MS. FRICK: Yes, I received all that this morning.
5 Just as a practical matter, your Honor, we have finished the
6 cross-examination of this witness. I would just request, maybe
7 at the time of the break, if the government is going to call
8 Figueroa next. The only thing I had from him was a portion of
9 a report, now complete a 302, as well as the plea agreement. I
10 would like a little bit of time to take a look at those,
11 obviously, before cross-examination.

12 MR. TRABOLD: So the court's aware of the initial
13 plan, obviously, we'll finish with Mr. Crockett. Then I plan
14 on calling Vito Casella, who is the custodian at SCI Waymart.
15 And then Frank Crockett.

16 THE COURT: Ms. Frick, that will give you time. One
17 other thing. We have an alternate that has not shown up. And
18 we have three alternates, my inclination is, if she doesn't
19 show up here like now, I would propose we just continue the
20 case. If and when she comes in, tell her that the horse has
21 left the barn. Does anyone have an objection to that -- I
22 don't see the need, three was probably overkill. She wasn't on
23 the jury, she's an alternate. Let's see if she's here, first
24 of all, that may cure the problem. But I want to continue on
25 with this case.

1 MR. TRABOLD: I would also like to put on the
2 record, your Honor, there was a 5K for Mr. Figueroa which we do
3 not have. I will bring out the voluminous information, what I
4 understand to be his cooperation. Essentially, amounts to him
5 cooperating against numerous people within Erie. He also
6 cooperated against people in New York City, including providing
7 cooperation in a case known as the ballplayers out of New York
8 City, which was a large scale Dominican drug ring in New York
9 City, which was operated by former Dominican baseball players.
10 So counsel is aware, I just say this, I don't want to surprise
11 her, I don't have a 5K. Mr. Figueroa, as referenced in his
12 presentence report, his sentencing range was 120 to 135. After
13 receiving the 5K, Mr. Figueroa got 18 months.

14 THE COURT: Eighteen months?

15 MR. TRABOLD: Correct, from your Honor.

16 THE COURT: That was me?

17 MR. TRABOLD: Yes. There also is a plea agreement
18 for Jamaal Smith's case, which occurred, I believe also around
19 '97, which also is archived, which we may not be able to get.
20 We will make every effort to get it. If we can't get it, I
21 will certainly bring out whatever we can. Obviously, we're not
22 trying to hide anything.

23 MS. FRICK: I have a little bit of a problem with
24 not having a written 5K for Figueroa.

25 MR. TRABOLD: I'm trying to take steps to get it. I

1 don't know if it's archived or not. The plea agreement wasn't
2 archived because we got the plea agreement.

3 MS. FRICK: That was before the 5K.

4 THE COURT: Well, put it this way. All he can do is
5 best efforts to get it. If you can't get it, you can't get it.
6 If you know the terms and conditions, beyond that there isn't
7 much we can do.

8 MR. TRABOLD: Obviously, the most critical component
9 of the cross-examination would be the sentence reduction --

10 THE COURT: What more would there be in the written
11 5K, I presume the written 5K motion is nothing more than a
12 recitation of the nature, scope and extent of his cooperation?

13 MR. TRABOLD: Correct.

14 THE COURT: Let's do this, we know you're hunting
15 for it, we'll talk about the logistics of it later, let's get
16 out there and get started.

17 (Whereupon, the proceedings recessed at 9:13 a.m.,
18 in Judge's Chambers; and reconvened at 9:15 a.m., in
19 Courtroom C as follows:)

20 THE COURT: Ms. Frick.

21 MS. FRICK: Thank you, your Honor.

22 JAMES E. CROCKETT, SR., GOVERNMENT WITNESS, PREVIOUSLY SWORN

23 (Continued) - CROSS-EXAMINATION

24 BY MS. FRICK:

25 Q. Mr. Crockett, when we broke yesterday, we had been

1 talking about the number of times that you had been interviewed
2 by agents of the state police or the FBI, do you recall that?

3 A. Yes.

4 Q. And I neglected to mention, but you also testified under
5 oath before a grand jury last November, is that correct?

6 A. Yes.

7 Q. So, in addition to all the statements that you gave, you
8 appeared before a number of citizens known as a grand jury and
9 testified about some of the things that you talked about here
10 yesterday, is that right?

11 A. Yes, it is.

12 Q. Now, in all of those times that you gave information and
13 testified, not once did you ever mention what you told us here
14 yesterday about Mr. Cooley talking to your mother, is that
15 right?

16 A. I'm not really sure, but Mr. Cooley knows.

17 Q. Did you, I'm focused on you right now, did you ever tell
18 the agents or the folks in the grand jury about the phone call
19 to your mom?

20 A. It wasn't a phone call, he went to my mother's house.
21 But I did tell the agents, I'm not sure if I told the grand
22 jury that or not.

23 Q. Okay. So you told the agents, is that right?

24 A. Yes, I did.

25 Q. If you told the agents, presumably they would have put

1 that in their reports, is that right?

2 A. Right.

3 MR. TRABOLD: Objection, your Honor, he can't
4 possibly know what an agent would do with the information
5 provided.

6 THE COURT: Sustained.

7 MS. FRICK: Thank you, your Honor.

8 BY MS. FRICK:

9 Q. Let me ask it this way, Mr. Crockett, did you review all
10 these reports?

11 A. I reviewed most of them.

12 Q. And, as a matter of fact, some of the reports have to do
13 with you reviewing previous reports and having the chance to
14 amend or correct anything, is that right?

15 A. Yes, some of dates and things had to be changed.

16 Q. Did you notice when you were reviewing any of those
17 reports, up to the time you testified yesterday, that there
18 wasn't anything in there about this visit by Mr. Cooley to your
19 mother?

20 A. I really didn't notice it.

21 Q. You didn't notice whether it was there or not there, is
22 that right?

23 A. I didn't know whether it was there or not, I know I had
24 told them about it.

25 Q. That was important to you, is that right?

1 A. Very important to me.

2 Q. And it was important because, as you've told these folks,
3 that was the reason you started talking about Mr. Cooley, is
4 that right?

5 A. No, the main reason why I started talking about Mr.
6 Cooley was because he threatened to kill my wife.

7 Q. Okay.

8 A. That's why.

9 Q. And your recollection -- let's go back again, is that
10 that happened in October, is that right?

11 A. That's when I got in touch with the FBI, in the month of
12 October.

13 Q. That's the first time you gave a complete statement, as
14 you considered it, about Mr. Cooley, is that right?

15 A. Yes.

16 Q. Now, you told us that your indictment and your conviction
17 is for a criminal conspiracy with persons by the name of
18 Colegrande and Licata, is that right?

19 A. That's correct.

20 Q. And that was in 2002, is that right?

21 A. Yes.

22 Q. Okay. And you also told the agents and you told the
23 folks here yesterday, that you met this Mr. Colegrande when you
24 were in the halfway house, is that right?

25 A. Yes.

1 Q. Okay. You started discussing cocaine with him then, is
2 that right?

3 A. Yes, I did.

4 Q. After you got out of the halfway house, you started
5 dealing with him?

6 A. No, when I got out of the halfway house I started dealing
7 with John Cooley.

8 Q. So you discussed all this with Mr. Colegrande, but you
9 didn't do anything with him, is that right?

10 A. No, I didn't.

11 Q. Until you were indicted?

12 A. I didn't do anything with him until I think in the year
13 2002, before that it was all with John Cooley.

14 Q. Okay. Now, Mr. Trabold brought out that the conspiracy
15 that you pled guilty to was from September, 2000 to June, 2002,
16 is that right?

17 A. I believe so.

18 Q. Now, so you had these conversations with the agents in
19 October, 2002; November, 2002, and you testified at the grand
20 jury in November, 2002, also, is that right?

21 A. Yes.

22 Q. Okay. Now, in all of those times you told about the
23 ounce quantity that you got from Mr. Cooley, is that right?

24 A. Five ounces the first time, a kilo the second time.

25 Q. Okay. But at that point in time up through November,

1 2002, you never told the agents anything about three kilo
2 deals, did you?

3 A. We talked about the one kilo deal, and then I remembered
4 the rest, and I came back to them and told them to come back
5 and see me, and I told them. Mr. Cooley knows what he gave me.

6 MS. FRICK: Your Honor, would you please direct the
7 witness to respond to the question only.

8 THE COURT: I think he was responding to it, go
9 ahead.

10 BY MS. FRICK:

11 Q. Mr. Crockett, would agree with me, then, the first time
12 you ever told the agents anything about multiple kilo deals
13 with Mr. Cooley wasn't until May of this year?

14 A. I've been in the county jail for 17 months, so the exact
15 months I can't recall. But I know exactly what was given to me
16 and when.

17 Q. Mr. Crockett, I understand what you've testified to. My
18 question has to do with when was the first time you revealed
19 this information?

20 A. It was in October.

21 Q. So your recollection is in October, the first time you
22 had a complete statement with the agents, you told them
23 everything?

24 A. I told them what I could remember at that time. As time
25 went on, I told them more.

1 Q. As time went on, you've remembered more, is that right?

2 A. Exactly.

3 Q. As time went on and you were indicted, you remembered
4 more, is that right?

5 A. This was even before the indictment.

6 Q. Okay. What did you tell them before the indictment?

7 A. I said these things happened before the indictment.

8 Q. I understand that, Mr. Crockett --

9 A. I didn't tell them anything before the indictment.

10 Q. After you were indicted, you started talking, is that
11 right?

12 A. No, after October, the first week in October when he said
13 he was going to kill my wife, that's when I started talking to
14 him.

15 Q. Now, October of 2002 is after you were indicted, is that
16 right?

17 A. Yes.

18 Q. May of 2003 is after you were indicted, is that right?

19 A. Yes.

20 Q. And that is the first time you talked about a multiple
21 kilo deal or two with Mr. Cooley, is that right?

22 A. As I told you before -- I started talking to them in
23 October, I don't know if it was May or what month it was when I
24 told them about the three kilos. But Mr. Cooley knows.

25 Q. That is when you first remembered about three kilo deals?

1 A. As I repeat, again, in October I talked to them the first
2 time, I told them about a kilo, one kilo deal. As time went
3 on, I remembered about the others. And I told them about the
4 three kilo deals. Mr. Cooley knows.

5 MS. FRICK: Excuse me, your Honor, I would ask that
6 you direct the witness just to answer the question.

7 THE COURT: I think that's fair, just respond to the
8 question. Go ahead.

9 BY MS. FRICK:

10 Q. Now, you testified yesterday, Mr. Crockett, that when you
11 got the one kilo that you attribute getting from Mr. Cooley,
12 you took it to someone else's house, is that right?

13 A. I took it to another place, I stashed it.

14 Q. And you wouldn't tell these folks yesterday who that was,
15 is that right?

16 A. I took it to a place and stashed it, not to nobody's
17 house.

18 Q. Okay. Where was that?

19 A. To an area where nobody wouldn't know where it was.

20 Q. Where was that?

21 A. In a field.

22 Q. So despite what you said yesterday, you did not take it
23 to someone else's house?

24 A. I took it to on somebody else's property, I didn't take
25 it in their house because I don't want them to be indicted for

1 having cocaine in their house.

2 Q. So you won't tell us who that is, is that right?

3 A. What difference does that make.

4 Q. Excuse me, will you tell us who that is?

5 A. Where I took it to?

6 Q. Yes.

7 A. I took it over on his property.

8 Q. Whose property?

9 A. John Cooley's property.

10 Q. Okay. So, yesterday you wouldn't tell us who that was
11 because you didn't want to get them in trouble, is that right?

12 A. I just didn't want to tell you where I was putting it at
13 because I didn't want to get nobody else in trouble. I took it
14 back to the house up there by 21st Street, that yellow house,
15 and stashed it in the back. The house that he sold it to Jose.

16 Q. Okay. But yesterday you had some reluctance about
17 telling us because you didn't want to get somebody else in
18 trouble?

19 A. Well, evidently, you're saying that --

20 Q. Who's this somebody else?

21 A. The only one that's involved is me and John Cooley.

22 Q. Did you tell the agents what you just told us?

23 A. No, I told them that I stashed it, I didn't tell them
24 where I stashed it or whose house or whatever.

25 Q. And they didn't press you on it,

1 right?

2 A. No.

3 Q. Today is the first time you ever told anybody that, is
4 that right?

5 A. Because I didn't know I had to reveal where I put it at.
6 I didn't know that I was supposed to reveal where I stashed it.

7 Q. Well --

8 A. I just made sure I got it off my property so if they came
9 to my house, they wouldn't find it on my property.

10 Q. So, in your mind, you could pick and choose what you
11 would reveal to the agents, then, is that right?

12 A. No, that's not correct.

13 Q. Well, you chose not to reveal that, is that right?

14 A. I told the agents the truth, like I'm telling now.

15 Q. But you didn't tell them that little piece of truth, is
16 that right?

17 A. Ma'am, I'm here today to tell the truth.

18 Q. Did you tell the agents that piece of truth?

19 A. I don't recall.

20 Q. You don't remember?

21 A. I didn't tell them where I put it at, no.

22 Q. That's my question?

23 A. That's the answer.

24 Q. Now, you told us yesterday about some information you had
25 about Raymond Simmons, is that right?

1 A. Yes.

2 Q. And, again, the first time you revealed that piece of
3 information was actually two days ago, is that right?

4 A. That's when I recall it.

5 Q. December 1st of 2003, is that right?

6 A. Yes.

7 Q. The day before you were to appear here as a witness, is
8 that right?

9 A. Yes.

10 Q. That's the first time you ever told the agents about your
11 conversation about Raymond Simmons, is that right?

12 A. I really never thought it had anything to do with this
13 case at the time, so that's why I never said anything about it
14 before.

15 Q. Well, the information that you provided had to do with
16 Mr. Cooley, didn't it?

17 A. Yes, it did, Mr. Cooley knows what he told me.

18 Q. Again, in your mind, you decided that didn't have
19 anything to do with this case, is that right?

20 A. I hadn't talked with the agents in a while. So things, I
21 started remembering other things, so I told them. There's even
22 more things I remember that I could tell.

23 Q. Well, before December 1st of this year, two days ago, you
24 were interviewed on October 29th, is that right?

25 A. I guess. I don't know what date it was.

1 Q. At that point in time you reviewed previous statements
2 that you made that were recorded by the agents, is that right?

3 A. Yes.

4 Q. And you had the opportunity to correct and amend those
5 statements, is that right?

6 A. We had a little bit of time together, but, you know, they
7 said they would correct it as we went along, as they left, you
8 know, they had a lot of people to talk to.

9 Q. Well, when you wanted to call the agents about what you
10 heard from your brother, Frank Crockett, you didn't have any
11 trouble getting in touch with them, did you?

12 A. No, because he was talking about killing my wife.

13 Q. I understand that, Mr. Crockett.

14 THE COURT: Let him finish, please, we're not going
15 to have a record here if you do that. And one other thing, I
16 apologize for interrupting, my clerk tells me that there was a
17 request from the jury or some of the jurors as to whether you
18 can take notes. The answer is yes, you can take notes. Do
19 they have pads up there, Tim?

20 THE CLERK: I'll get some from the jury room.

21 THE COURT: All right. Go on, Ms. Frick.

22 BY MS. FRICK:

23 Q. My question simply, Mr. Crockett, is you took the
24 opportunity when you wanted to and made contact with the
25 agents, is that right?

1 A. When I needed to get in touch with them, I would make a
2 phone call.

3 Q. Was the only time you did that, you didn't do that to
4 tell them about three kilo deals or to tell them about Raymond
5 Simmons, did you?

6 A. At the time the most important thing for me was to look
7 out for my wife's well-being.

8 Q. I understand that. But after that happened, you did not
9 again take the opportunity to provide the information that
10 you've told us about here today to those agents, is that right?

11 A. Would you restate that question again.

12 Q. After you called them about the supposed threat to your
13 wife, you never called them again, did you?

14 A. Yeah, I talked to them again. Matter of fact, I talked
15 to them the next day when they came to see me.

16 Q. Did you call them to tell them you had additional
17 information?

18 A. Yes, I did, I had additional information on John Cooley
19 and the things that we had done.

20 Q. Okay. So you were interviewed about six weeks ago, in
21 October of 2003, is that right?

22 A. I believe so.

23 Q. You looked at the reports that you had given previously,
24 as well as your grand jury testimony, is that right?

25 A. I looked over some of the reports, not all of them.

1 Q. But the information about Raymond Simmons, you didn't
2 give them at that time, is that right?

3 A. Like I said before, the most important thing for me was
4 to make sure that my wife was all right, because he was still
5 on the streets.

6 Q. Mr. Crockett, I'm talking about October of 2003, when you
7 were given the opportunity to review your reports and review
8 your grand jury testimony, did you take that opportunity to
9 tell about Raymond Simmons, to tell about where you stashed the
10 cocaine?

11 A. No, not at the time.

12 Q. Okay, that's all my question was. Now, Mr. Crockett,
13 your plea agreement, which is Government Exhibit 1, that you
14 reviewed yesterday and the folks saw, deals with your plea to
15 the indictment at Criminal No. 02-15, is that right?

16 A. I don't know what the criminal number is.

17 MS. FRICK: Your Honor, may I show this to the
18 witness.

19 THE COURT: Sure.

20 BY MS. FRICK:

21 Q. Mr. Crockett, that's Government Exhibit 1. And that
22 indicates the criminal number, could you read that out for the
23 jury, please?

24 A. Criminal No. 02-15.

25 Q. Okay. Now, that's where you were indicted with these

1 other folks, Colegrande and Licato, is that right?

2 A. Correct.

3 Q. And that's what you pled guilty to, is that right?

4 A. Yes.

5 Q. That's what you'll be sentenced on, is that right?

6 A. Yes.

7 Q. A presentence report has been done and right now your
8 range is over a 20-year range, 262 to 327 months, is that
9 right?

10 A. Yes.

11 Q. That's where you hope that Judge Cohill will reduce that
12 sentence for you, is that right?

13 A. Yes.

14 Q. Significantly reduce that sentence, you hope, is that
15 right?

16 A. Of course, I would hope that.

17 Q. Sure. Now, Mr. Crockett, that indictment doesn't
18 include, does it, any of the activities you talked about here
19 today with Mr. Cooley, is that right?

20 A. Could you repeat that.

21 Q. I said that indictment doesn't include any of the -- the
22 conspiracy doesn't include anything you did with Mr. Cooley, is
23 that right?

24 A. No.

25 Q. So everything you talked about here yesterday and today

1 that has to do with Mr. Cooley, you're not going to be
2 prosecuted for, is that right?

3 A. No.

4 Q. Is that correct?

5 A. I'm not going to be prosecuted for this.

6 Q. So the only thing you're going to be prosecuted for is
7 the indictment that you pled guilty to?

8 A. Yes.

9 Q. And that's contained in this plea agreement, Government
10 Exhibit 1, is that right?

11 A. Yes.

12 Q. So the multiple kilos, the multiple ounces that you
13 talked about with Mr. Cooley, you're getting a free ride, is
14 that right?

15 A. No, I'm not getting no free ride.

16 Q. You're not going to be sentenced on those, are you?

17 A. I'm still not getting no free ride.

18 Q. You're not being prosecuted, are you?

19 A. No.

20 Q. Now, Mr. Crockett, if you could look at the exhibit, I
21 placed it on the screen there, paragraph number, paragraph four
22 talks about at the time of sentencing, which, as we know, you
23 haven't been sentenced yet, is that right?

24 A. That's right.

25 Q. And your sentence won't happen until after you testified

1 here, is that right?

2 A. As far as I know, the date hasn't been set yet.

3 Q. Well, we could agree that you haven't been sentenced yet,
4 right?

5 A. Yes.

6 Q. Paragraph four deals with if your cooperation has been
7 completed or even within one year after you have been
8 sentenced, the government will, and I'm paraphrasing here, and
9 the court and jury can read paragraph four, it says that the
10 government will file a motion under 5K1 of the Sentencing
11 Guidelines. It says also that you have no right to compel the
12 government to do that, it's purely in the government's
13 discretion and the decision to reduce the sentence below the
14 applicable guideline range or any mandatory minimum is solely
15 in the discretion of the district court, is that right?

16 A. That's correct.

17 Q. So it's in the discretion of the government to file the
18 motion on your behalf, is that right?

19 A. That's what it says.

20 Q. And it's in the discretion of the court to reduce your
21 sentence if the court feels it's appropriate, is that right?

22 A. That's what it says.

23 Q. Okay. And your hope by testifying here today is that
24 your sentence is significantly reduced, is that right?

25 A. Yes, that's correct.

1 Q. And your expectation, also, is that you will never be
2 prosecuted and have not yet been prosecuted for anything you
3 did with Mr. Cooley, is that right?

4 A. Yes.

5 MS. FRICK: No other questions.

6 THE COURT: Mr. Trabold, do you have any redirect?

7 MR. TRABOLD: Just briefly, your Honor.

8 REDIRECT EXAMINATION

9 BY MR. TRABOLD:

10 Q. Mr. Crockett, I would direct your attention to on
11 Government's 1, we'll use the fancy TV thing -- page number
12 two, paragraph number five. Can you see that up there?

13 A. Yes.

14 Q. And that says "he will," he meaning you, "will provide
15 all information and evidence within his knowledge or control
16 concerning the investigation. All such information will be
17 full, complete, accurate and truthful. The determination of
18 the United States Attorney as to the completeness, accuracy,
19 and the truthfulness of the information and evidence provided
20 shall be final and conclusive." So it's your understanding
21 that the plea agreement that you have with the government
22 compels you to tell the truth?

23 A. Exactly.

24 Q. And the paragraph that counsel just went over with you, I
25 believe you testified that you know you have absolutely no

1 ability to compel either the government, the United States
2 Attorney, or the judge in this case, Judge Cohill, to do
3 anything?

4 A. Yes, that's correct.

5 Q. Meaning you can't go into court with your attorney and
6 say the government has to give me something?

7 A. The government hasn't promised me anything.

8 Q. I want to direct you to page five of the plea agreement,
9 paragraph number three. Read along with me. It says "if, at
10 any time, the United States Attorney determines that James
11 Edward Crockett has provided any information or evidence that
12 is not full, complete, accurate, and truthful, or that James
13 Edward Crockett has not provided assistance or testimony upon
14 request, the obligations of the United States Attorney under
15 this agreement are terminated. In that event, the government
16 may prosecute James Edward Crockett on charges it has agreed to
17 dismiss or has dismissed, and it may use against James Edward
18 Crockett information and/or evidence obtained from him. The
19 government may also prosecute James Edward Crockett for perjury
20 or obstruction of justice. Any plea of guilty previously
21 entered will stand, however, and James Edward Crockett will not
22 have the right to withdrawal the plea of guilty by virtue of
23 his breach of this agreement." Additionally, paragraph number
24 four says "this agreement does not preclude the government from
25 pursuing any civil or administrative remedies against James

1 Edward Crockett or his property." So your understanding is if
2 you do not tell the truth, essentially, the weight of the world
3 is going come down on you based on the plea agreement?

4 A. That's right.

5 MR. TRABOLD: One moment, your Honor. Nothing
6 further.

7 THE COURT: Anything further?

8 MS. FRICK: Very briefly, your Honor.

9 RE CROSS-EXAMINATION

10 BY MS. FRICK:

11 Q. Mr. Crockett, you said you received no promise from the
12 government, is that right?

13 A. Exactly.

14 Q. Well, that's not entirely true, is it, this plea
15 agreement is a promise from the government, is it not?

16 A. No, it don't guarantee you anything.

17 Q. It doesn't guarantee a range of sentence, is that right?

18 A. It doesn't guarantee anything.

19 Q. Okay. So, as far as you're concerned, this plea
20 agreement doesn't mean anything to you?

21 A. It means something to me, but it don't, nobody said they
22 guaranteeing me anything.

23 Q. Well, if you cooperate --

24 A. If I cooperate, I'm telling the truth, like Mr. Cooley
25 knows -- so I know I told the truth, that's what I'm here for.

1 Q. All right. Mr. Crockett, look at page three, paragraph
2 two. "Pursuant to Section 1B1.8 of the Sentencing Guidelines,
3 the United States Attorney will not use against James Edward
4 Crockett any information or evidence provided by him in the
5 course of his assistance in the investigation." That's a
6 promise, isn't it?

7 A. I guess some of it, I don't know.

8 THE COURT: Keep your voice up, speak into the
9 microphone, sir.

10 BY MS. FRICK:

11 Q. The next paragraph on there, paragraph three. Prior to
12 sentencing, the United States will, orally or in writing,
13 recommend a three-point reduction in the level, is that right?

14 A. That's what it says.

15 Q. Okay. And we've already gone over the next paragraph,
16 which is four, which talks about the government filing a motion
17 on your behalf if, in the discretion of the government, it's
18 determined that you provided substantial assistance. That's
19 your understanding, is it not?

20 A. Yes.

21 Q. Okay. So you're getting two things. If the government
22 feels that you have cooperated fully, they will file this
23 motion, ask the judge to go below the 262 months, is that
24 correct?

25 A. Correct.

1 Q. And the government will also never use against you all
2 the information that you provided about Mr. Cooley and anything
3 else that didn't have to do with your indictment, is that
4 right?

5 A. That's what it says.

6 Q. All right. Those are the promises the government made to
7 you, is that right?

8 A. If you call them promises, yeah.

9 MS. FRICK: Thank you.

10 MR. TRABOLD: Nothing further, your Honor.

11 THE COURT: You're excused, Mr. Crockett.

12 MR. TRABOLD: Your Honor, the United States calls
13 Vito Casella.

14 THE CLERK: Please raise your right hand. Could you
15 state your name and spell it for the record?

16 THE WITNESS: Vito Casella. V-i-t-o, C-a-s-e-l-l-a.

17 VITO CASELLA, GOVERNMENT WITNESS, SWORN

18 DIRECT EXAMINATION

19 BY MR. TRABOLD:

20 Q. Sir, where are you employed?

21 A. I'm employed at SCI Waymart by the Department of
22 Corrections of Pennsylvania.

23 Q. Just so the jury is clear, the acronym SCI means --

24 A. State Correctional Institute at Waymart.

25 Q. Where is that located, sir?

1 A. In Waymart, Pennsylvania.

2 Q. Which is how far a drive from here, assuming good
3 weather?

4 A. Approximately, seven hours.

5 Q. And in what capacity -- what do you do there?

6 A. I'm the inmate record manager.

7 Q. And what are your duties as the inmate record manager?

8 A. Multiple duties, actually. But, basically, in charge of,
9 custodian of the inmate records, along with day-to-day records
10 that are part of our daily routine. The inmate's legal file.
11 I'm in charge of release procedures, admissions, quite a few
12 different things.

13 Q. And would it be fair to say, given the nature of what
14 you're doing, that a number of different records are kept in
15 the ordinary course of business?

16 A. Multiple records are kept.

17 Q. And I want to show you what I'm marking here as
18 Government Exhibit No. 2 -- your Honor, just for the record I'm
19 going to show the witness this whole pad, I'm just going to
20 mark the page that is really relevant to the case as
21 Government's 2.

22 THE COURT: All right.

23 BY MR. TRABOLD:

24 Q. I'm going to give you a moment here to take a look at
25 that whole thing, and then if you could, I have a page marked

1 as Government's 2. First of all, identify what the whole
2 document or whole pad is?

3 A. This is referred to as our yellow pad, which becomes part
4 on of our daily captain's reports. Basically, it's a
5 chronology of what happened during the course of the day, any
6 incidents that may have happened, whether there was inmates
7 admitted, inmates released. Accidents. Any type of business
8 that went on during the day. Incident reports, it's all
9 compiled on to this yellow pad, which then is put together as
10 part of the captain's report, which is circulated in the jail
11 the next day for the executive staff to review and becomes part
12 of the official record.

13 Q. And who is it in the prison system, from a staff
14 perspective, that would write notes on the yellow pad you have
15 in front of you?

16 A. Actually, it could be multiple people. But normally it's
17 the sergeant on duty. If the sergeant isn't there or being
18 relieved, it could be the lieutenant, it could actually be the
19 captain on duty. Usually it's the sergeant, lieutenant or
20 captain.

21 Q. And the yellow pad you have in front of you, which
22 contains Government's 2, what dates does that encompass?

23 A. This is from 9/3/1999 through inclusive to 9/20/1999.

24 Q. So September 3, '99 to September 20, '99?

25 A. Correct.

1 Q. And is that pad a record of the prison that's regularly
2 kept in the course of business?

3 A. Has been forever.

4 Q. And, in fact, in this case did you receive a call from
5 Trooper Weindorf to go retrieve that report?

6 A. Correct.

7 Q. And you, after some searching, were able to obviously
8 locate the report as it was held in the file?

9 A. Yes, they're kept in archives.

10 Q. Let me direct you to what I marked as Government's 2, and
11 then I'll take it back from you so we can put it on the screen.
12 Can you identify what Government's 2 is?

13 A. Yes, I can.

14 Q. What is it?

15 A. It's the sheet for Tuesday, 9/7/1999, starting at the
16 0600 shift, which would be 6 o'clock in the morning.

17 Q. Does that sheet, Government's 2, contain reference to an
18 inmate by the name of Crockett or James Crockett?

19 A. Yes, it does.

20 Q. Let me take it back from you, then you can look at it on
21 the screen. Can you see that up there okay, sir?

22 A. Yes, I can.

23 Q. Can you read for the jury what is the entry marked at
24 0645?

25 A. At 0645 it's noted that a John Cooley (friend) arrived to

1 pick up inmate released to a CCC referral. The inmate was DD
2 9126 Crockett.

3 Q. What's a CCC referral mean?

4 A. Evidently Mr. Crockett was being released to a halfway
5 house, which is a community corrections center.

6 Q. And CCC is community corrections center?

7 A. (Witness nods head.)

8 Q. And can you explain to the ladies and gentlemen of the
9 jury, based on your understanding and your experience, what is
10 the procedure at SCI Waymart when someone comes to pick up an
11 inmate, what does the person picking up the inmate who's being
12 released, what do they have to do?

13 A. They report to our sallyport area. Address security of
14 who they are and what they're there for. From there they're
15 directed into our front gate area. At that time they're asked
16 to produce identification. Again, it's noted on the pad who
17 they are. That they're to pick up whoever. We determine if
18 it's a legitimate pickup and process them out.

19 Q. And the person picking up has to show ID?

20 A. Correct.

21 Q. What percentage of the inmates, if you know, what
22 percentage of the inmates, approximately, are picked up by an
23 individual rather than let's say go on a bus when they're
24 released?

25 A. Less than 20 percent.

1 MR. TRABOLD: Judge, I would ask that Government's
2 Exhibit 2 be admitted.

3 THE COURT: Any objection?

4 MS. FRICK: No objection.

5 THE COURT: It's admitted.

6 MR. TRABOLD: Nothing further.

7 THE COURT: Any cross?

8 MS. FRICK: No, your Honor.

9 THE COURT: All right, thank you, sir, you're
10 excused.

11 MR. TRABOLD: Your Honor, just for the record, may
12 Mr. Casella take this pad, minus Government's 2, back to SCI
13 Waymart with him?

14 THE COURT: He may.

15 MR. TRABOLD: May the witness be excused, your
16 Honor.

17 THE COURT: He is.

18 THE WITNESS: Thank you.

19 MR. TRABOLD: Your Honor, the United States calls
20 Frank Crockett.

21 THE COURT: Mr. Crockett, stand in front of the
22 clerk's desk here, he'll swear you in.

23 THE CLERK: Please raise your right hand. Sir,
24 state your name fully and spell it for the record?

25 THE WITNESS: Frank Crockett. F-r-a-n-k,

1 C-r-o-c-k-e-t-t.

2 FRANK CROCKETT, GOVERNMENT WITNESS, SWORN

3 DIRECT EXAMINATION

4 BY MR. TRABOLD:

5 Q. Sir, how old are you?

6 A. Fifty.

7 Q. How far did you go in school?

8 A. Eleventh.

9 Q. Do you have any pending criminal cases or convictions or
10 anything you're waiting to be sentenced on at all?

11 A. No.

12 Q. You're not in the criminal justice system at all at this
13 point in time?

14 A. No, sir.

15 THE COURT: Pull your chair in, sir, speak directly
16 into the microphone.

17 BY MR. TRABOLD:

18 Q. Have you been promised anything in exchange for your
19 testimony?

20 A. No.

21 Q. Have you asked for anything in exchange for your
22 testimony?

23 A. No, I wouldn't even be here if it wasn't asked for the
24 fact that John asked me to deliver the message.

25 Q. Are you expecting to get anything in exchange for